

House Bill 416

By: Representatives Floyd of the 147th, Rice of the 51st, Parrish of the 156th, Powell of the 29th, and Bearden of the 68th

A BILL TO BE ENTITLED

AN ACT

To amend Article 4 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to restoration of licenses to persons completing defensive driving course or alcohol or drug program, so as to provide for approval of classroom and online driver improvement clinics' curriculum; to increase the fee for DUI Alcohol or Drug Use Risk Reduction Programs; to provide for certificates of completion; to delete references to advanced defensive driving courses; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 4 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to restoration of licenses to persons completing defensive driving course or alcohol or drug program, is amended by revising Code Section 40-5-80, relating to the purpose of driver improvement programs, as follows:

"40-5-80.

The purpose of this article, the 'Georgia Driver Improvement Act,' is to improve and promote greater safety upon the highways and streets of this state; to improve the attitude and driving habits of drivers who accumulate traffic accident and motor vehicle conviction records; and to provide uniform DUI Alcohol or Drug Use Risk Reduction Programs for the rehabilitation of persons identified as reckless or negligent drivers and frequent violators. In carrying out this purpose, the Department of Driver Services shall:

(1) Charge a fee for the consideration of applications for approval of online and classroom driver improvement clinics and instructors. The amount of this fee shall be established by the commissioner and shall, as best as the commissioner shall determine, approximate the expense incurred by the department in consideration of an application. These licenses and each renewal thereof shall be valid for a period of four years unless suspended or revoked prior to the expiration of that time period; and

(2) Require, in addition to the criteria established by the commissioner for approval of online and classroom driver improvement clinics and DUI Alcohol or Drug Use Risk Reduction Programs, as provided in subsections (a) and (e) of Code Section 40-5-83, that every driver improvement clinic and DUI Alcohol or Drug Use Risk Reduction Program shall, as a condition of approval, provide a continuous surety company bond for the protection of the contractual rights of students in such form as will meet with the approval of the department, and written by a company authorized to do business in this state. The principal sum of the bond shall be established by the commissioner; however, in no event shall this amount be less than \$10,000.00 per location, and a single bond at such rate may be submitted for all locations under the same ownership. If at any time said bond is not valid and in force, the license of the clinic or program shall be deemed suspended by operation of law until a valid surety company bond is again in force."

SECTION 2.

Said article is further amended by revising subsection (a) of Code Section 40-5-81, relating to court ordered attendance at driver improvement clinics and programs, as follows:

"(a) Any driver improvement program at which attendance is required by court order shall conform to the requirements of this article. Courts shall only order individuals to attend or register for online or classroom driver improvement programs that are licensed and approved by the department under the provisions of Code Sections 40-5-82 and 40-5-83. Certificates of completion from unlicensed online or classroom driver improvement programs shall not be recognized for any purposes under this article."

SECTION 3.

Said article is further amended by revising subsections (a) and (e) of Code Section 40-5-83, relating to establishment and approval of driver improvement clinics and programs, as follows:

"(a)(1) The commissioner shall establish criteria for the approval of online and classroom driver improvement clinics. To be approved, a clinic shall provide ~~and operate either a defensive driving course, an advanced defensive driving course, or a professional defensive driving course or any combination thereof~~ to the department for approval, or notify the department of the clinic's legal authority to use a currently approved curriculum or program, a curriculum consisting of a minimum of six hours of online or classroom theoretical instruction consisting of traffic safety related information designed for the improvement or remediation of an individual's knowledge of defensive driving techniques and traffic laws. Any curriculum submitted to the department for approval for use online shall have been approved by the department as a classroom curriculum and in

1 use in a licensed driver improvement clinic for a minimum of one year. This provision
2 shall not be construed to restrict licensed and approved curriculum providers from
3 updating information to accurately reflect changes in this Code or other defensive driving
4 material. Clinics shall be composed of uniform education and training programs
5 ~~consisting of six hours of instruction~~ designed for the rehabilitation of problem drivers.
6 The commissioner shall establish standards and requirements concerning the contents of
7 courses, qualifications of instructors, attendance requirements for students, and
8 examinations. Approved clinics shall charge a fee of ~~\$75.00 for a defensive driving~~
9 ~~course, an advanced defensive driving course, or a professional defensive driving course~~
10 \$40.00 for an online driver improvement program and \$95.00 for a classroom driver
11 improvement program; except that such clinics may charge different fees of their own
12 choosing if the person is not enrolling in such course pursuant to court order, pretrial
13 diversion program, or department requirement. No clinic shall be approved unless such
14 clinic agrees in writing to allow the examination and audit of the books, records, and
15 financial statements of such clinic. ~~Clinics may be operated by any individual,~~
16 ~~partnership, corporation, association, civic group, club, county, municipality, board of~~
17 ~~education, school, or college.~~ Prior to approval of any online driver improvement
18 program, such clinic or program provider shall provide proof to the department that any
19 server or other electronic data base used to provide service or maintain any records,
20 including but not limited to name, address, telephone number, driver's license number,
21 department assigned tracking number, social security number, or other identifying
22 information of any applicant or enrollee, is physically located within the 48 contiguous
23 states. Further, prior to receiving approval from the department, the applicant for any
24 online clinic or Internet program shall provide to the department the authority to
25 physically access such servers or electronic data base, including, but not limited to, any
26 access codes, passwords, or other electronic entry configurations to enable the department
27 to enter, review, and copy any data related to enrollment, required tests, or final
28 examinations or the issuance of any completion certificate, at any time. It shall be the
29 responsibility of the clinic owner or operator to issue to each student who has passed the
30 course a certificate of completion in the format prescribed by the department for
31 reinstatement, points reduction, out-of-state reinstatement, or as ordered by a court. The
32 student's stated purpose for taking the course shall be noted as required by the certificate
33 of completion. Students who are taking a class for the purpose of insurance reduction
34 only, without any additional purposes of reinstatement, points reduction, out-of-state
35 reinstatement, or fulfilling a court order, shall be given a certificate of completion noting
36 this purpose. A certificate of completion for insurance reduction only cannot be used for
37 purposes of reinstatement, points reduction, out-of-state reinstatement, or fulfilling a

1 court order. Online or classroom driver improvement clinics may be operated by any
2 public, private, or governmental entity; provided, however, that in any county where a
3 driver improvement clinic is operated by a private entity, no additional governmental
4 entity shall be licensed to operate a driver improvement clinic unless the department
5 determines that service to the residents of that county is not being met by licensed
6 providers.

7 (1.1)(A) No driver improvement clinic shall be permitted to use, adopt, or conduct any
8 business under any name that is like or deceptively similar to any name used by any
9 other driver improvement clinic, Georgia company, or Georgia corporation registered
10 with the Secretary of State. This subparagraph shall not prohibit the franchising or
11 licensing of any part or all of the name of a driver improvement clinic by the owner or
12 the rights thereof to another licensed driver improvement clinic.

13 (B) This paragraph shall not prohibit the franchising or licensing of any part or all of
14 ~~the name of a clinic~~ an approved curriculum by the owner of the rights therein to
15 another licensed driver improvement clinic, either directly or through a third-party
16 provider.

17 (2) The commissioner may issue a special license to the instructor of any ~~commercial~~
18 driver training school authorizing such instructor to teach a defensive driving course;
19 ~~advanced defensive driving course, or professional defensive driving course~~ of a driver
20 improvement clinic provided pursuant to this Code section if such instructor is qualified
21 to teach a teen-age driver education course which consists of a minimum of 30 hours of
22 classroom and six hours of behind-the-wheel training and such instructor certifies to the
23 commissioner that he or she has provided at least 250 hours of behind-the-wheel training
24 in a teen-age driver education course."

25 "(e) The department is designated as the agency responsible for establishing criteria for the
26 approval of DUI Alcohol or Drug Use Risk Reduction Programs. An applicant must meet
27 the certification criteria promulgated by the department through its standards and must
28 provide the following services: (1) the assessment component and (2) the intervention
29 component. The department is designated as the agency responsible for establishing rules
30 and regulations concerning the contents and duration of the components of DUI Alcohol
31 or Drug Use Risk Reduction Programs, qualifications of instructors, attendance
32 requirements for students, examinations, and program evaluations. Qualified instructors
33 shall be certified for periods of four years each, which may be renewed. Approved DUI
34 Alcohol or Drug Use Risk Reduction Programs shall charge a fee of \$75.00 for the
35 assessment component and ~~\$190.00~~ \$225.00 for the intervention component. An additional
36 fee for required student program materials shall be established by the department in such
37 an amount as is reasonable and necessary to cover the cost of such materials. No DUI

Alcohol or Drug Use Risk Reduction Program shall be approved unless such clinic agrees in writing to submit reports as required in the rules and regulations of the department and to allow the examination and audit of the books, records, and financial statements of such DUI Alcohol or Drug Use Risk Reduction Program by the department or its authorized agent. DUI Alcohol or Drug Use Risk Reduction Programs may be operated by any public, private, or governmental entity; provided, however, that, except as otherwise provided in this subsection, in any political subdivision in which a DUI Alcohol or Drug Use Risk Reduction Program is operated by a private entity, whether for profit or nonprofit, neither the local county board of health nor any other governmental entity shall fund any new programs in that area. Programs currently in existence which are operated by local county boards of health or any other governmental entities shall be authorized to continue operation. New programs may be started in areas where no private DUI Alcohol or Drug Use Risk Reduction Programs have been made available to said community. The Department of Corrections is authorized to operate DUI Alcohol or Drug Use Risk Reduction Programs in its facilities where offenders are not authorized to participate in such programs in the community, provided that such programs meet the certification criteria promulgated by the Department of Driver Services. All such programs operated by the Department of Corrections shall be exempt from all fee provisions established in this subsection specifically including the rebate of any fee for the costs of administration. No DUI Alcohol or Drug Use Risk Reduction Program will be approved unless such clinic agrees in writing to pay to the state, for the costs of administration, a fee of \$15.00, for each offender assessed or each offender attending for points reduction, provided that nothing in this Code section shall be construed so as to allow the department to retain any funds required by the Constitution of Georgia to be paid into the state treasury; and provided, further, that the department shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except Code Section 45-12-92, prior to expending any such miscellaneous funds."

SECTION 4.

Said article is further amended by revising subsections (b), (c), and (d) of Code Section 40-5-84, relating to reinstatement of suspended licenses, as follows:

"(b) The license of any person whose license is suspended for the second time as a result of the conviction of an offense listed in Code Section 40-5-54 shall, at the expiration of 120 days following the date the license is suspended, be reinstated by the department upon receipt by the department of a certificate of completion of ~~an advanced~~ a defensive driving course and the payment of a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail.

(c) The license of any person whose license is suspended for the first time as a result of the assessment of points pursuant to Code Section 40-5-57 shall be reinstated by the department immediately upon receipt by the department of a certificate of completion of ~~an approved~~ a defensive driving course and the payment of a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail.

(d) The license of any person whose license is suspended for the second time as a result of the assessment of points pursuant to Code Section 40-5-57 shall be reinstated by the department immediately upon receipt by the department of a certificate of completion of ~~an advanced~~ a defensive driving course and the payment of a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail."

SECTION 5.

This Act shall become effective on July 1, 2007.

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.